

Notice of Allowability

Application No.

10/758,915

Examiner

Frederick F. Krass

Applicant(s)

PELLICO, MICHAEL A.

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment received 12/19/05.
2. ☒ The allowed claim(s) is/are 1-24.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>1-18-06</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Christie on 1-18-06.

The following changes have been made:

1) In the specification, p. 1, line 7, immediately before "which" there has been inserted --- , and now abandoned, ---

2) In the specification, p. 1, line 8, at the end of the line (after "2000,") there has been inserted --- , and now abandoned, ---

3) Claim 1, third line, "the" has been deleted.

4) Claim 1, seventh line, at the end of the line (after "gel") there has been inserted a comma.

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- 5) Claim 1, last line, "the" has been deleted.
- 6) Claim 13, third line, "the" has been deleted.
- 7) Claim 13, sixth line, "USP" has been deleted.
- 8) Claim 13, penultimate line, "CG" has been deleted.
- 9) Claim 13, penultimate line, immediately before "and" there has been inserted -
-- by wt. ---
- 10) Claim 14, third line, "the" has been deleted.
- 11) Claim 14, fifth line, "USP" has been deleted.
- 12) Claim 14, penultimate line, "CG" has been deleted.
- 13) Claim 15, third line, "the" has been deleted.
- 14) Claim 15, sixth line, "USP" has been deleted.
- 15) Claim 15, penultimate line, "CG" has been deleted.

16) Claim 15, penultimate line, "and" (before "by") has been deleted.

17) Claim 15, penultimate line, at the end of the line (after "wt.") there has been inserted --- and ---

18) Claim 16, fourth and fifth lines, the phrase "in the absence of a radiant energy or heat energy activator substance" has been deleted in its entirety.

19) Claim 16, last line, immediately before the period ending the claim there has been inserted --- , and neither the first nor second component incorporates a radiant energy or heat energy absorbing activator ---

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

Applicant by has discovered that when carbamide peroxide and hydrogen peroxide are combined, two part bleaching systems incorporating same can unexpectedly be activated without applying heat or radiant energy.¹ This could not have been predicted from the relevant prior art of record, which actually teaches away from same by requiring activation with heat or radiant energy. See Ostler at col. 6, lines 29-

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43; Jensen et al at the first paragraph of col. 4; at col. 8, line 10; and col. 6, lines 29-56; and Chadwick et al (USP 6,555,020) at col. 6, lines 18-24. (Indeed, this result is counterintuitive given that carbamide peroxide is less active than hydrogen peroxide).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick F. Krass whose telephone number is 571-272-0580. The examiner's schedule is 9:30AM – 6:00PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached at 571-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

¹ This is substantially the same reasoning used to allow the claims in U.S.S.N. 10/045,184, now U.S.P.

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frederick Krass
Primary Examiner
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